

COUNTY OF LOS ANGELES – DEPARTMENT OF MENTAL HEALTH

F A C T S H E E T

**APPROVAL TO SUPERSEDE 63 LEGAL ENTITY AGREEMENTS
FOR FISCAL YEARS 2009-10 AND 2010-11
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

SUBJECT

Request approval to supersede 63 Legal Entity Agreements to incorporate revised and new standard contract provisions effective July 1, 2009, and update the Maximum Contract Amounts as approved under delegated authority.

REQUEST

Approve and authorize the Director of Mental Health, or his designee, to prepare, sign, and execute 63 Department of Mental Health (DMH) Legal Entity (LE) Agreements, in the estimated Maximum Contract Amounts (MCAs) provided that the Director of Mental Health, or his designee, may adjust the final MCAs to reflect: 1) changes resulting from the Final Budget adopted by your Board; 2) changes resulting from further State or federal actions; and/or 3) modifications required to accommodate the change in the Financial Summary from individual funding sources to gross program dollars. The superseding of these LE Agreements will ensure the uniform implementation of revised and new provisions required in all LE Agreements. The term of the 63 LE Agreements will be effective July 1, 2009 through June 30, 2010, with 26 LE Agreements having a provision for one subsequent one-year renewal period.

Delegate authority to the Director of Mental Health, or his designee, to prepare, sign, and execute future amendments to these LE Agreements, provided that: 1) the County's total payments to a Contractor under each LE Agreement do not exceed a 20 percent increase from the applicable Board-approved annual MCA and the Institutions for Mental Diseases per diem rate increase do not exceed the rates per the State directive; 2) any such increase is used to provide additional services or to reflect program and/or policy changes; 3) your Board has appropriated sufficient funds for all changes; 4) approval by County Counsel and the Chief Executive Officer (CEO), or designees, is obtained prior to any such amendment; 5) County and Contractor may, by written amendments, reduce programs or services and revise the applicable MCA, provided that any amendments which reduce programs or services will be consistent with the principles agreed to in DMH's stakeholders' process; and 6) the Director of Mental Health notifies the Board of Supervisors of agreement changes in writing within 30 days after execution of each amendment.

Approve superseding revisions to the last Board-approved MCA for these 63 LE Agreements, some of which may have increased or decreased under delegated authority since their last Board-approved MCA.

PURPOSE/JUSTIFICATION

The new superseded LE Agreements will reflect changes to the financial provisions of the contract to facilitate State requirements for DMH to make its Certified Public Expenditure (CPE) attestation when claims are submitted, thus allowing DMH to draw down federal funds in a more timely manner. These changes include:

- A revision in payment procedures to pay Medi-Cal claims based on submitted units of service instead of State adjudicated claims; payments for claims that are ultimately denied by the State will be deducted from future payments until and unless the Contractor resubmits those claims as Medi-Cal claims (e.g., when the claim was rejected because of an error) or resubmits the claims to the appropriate program authorized in the contract (e.g, non Medi-Cal services);
- A revision to the Shift of County General Funds language will allow Contractor to shift up to 15 percent of County General Funds with prior DMH approval and through an administrative amendment;
- Changes the Financial Summary to eliminate the individual funding sources and to provide gross program dollars for the various funded programs;
- The Cash Flow Advance (CFA) recovery period will be extended up to 9 months following the close of the fiscal year. The previous language required CFA recovery by the end of the third month following the close of the fiscal year; from three months to nine months.
- The Rate Setting process and the Rate Page will now be part of DMH's "Provisional Rate Setting" policy instead of the LE Agreement. Reference is made to this policy in the financial provisions.

These changes will allow DMH to return to a single certification on Medi-Cal claims that includes both the statement of eligibility/necessity and the statement that the County has incurred the CPE, thereby eliminating the current two-step process that has been in effect since the Centers for Medicaid and Medicare Services informed the State in February 2008 that the previous certification was insufficient. It will also eliminate impediments to DMH making its CPE attestation that have been created as a result of

the contractor's ability to shift funds without prior approval and as a result of unknown changes in beneficiary status at the time of service.

DMH is requesting Board authority to modify the MCA prior to finalizing the LE Agreements to allow for adjustments that may be required as a result of changes from the Proposed Budget due to the adoption of the Final Budget; changes that may be necessary as a result of further State or federal actions; and modifications to accommodate the revision in the Financial Summary from individual funding sources to gross programmatic dollars. Upon execution of the LE Agreements, DMH will report the final MCA for each LE Agreement to the Board.

The superseded LE Agreements include all revised and new provisions, and the clinical and administrative staff of DMH will continue to monitor Contractor compliance with all terms of the LE Agreements and with all applicable federal, State, and County policies and procedures. There has been an ongoing review of all DMH agreements with contractors. The CEO and Auditor-Controller's offices have previously recommended that there be uniformity of terms and conditions within agreements. Additionally, since their last Board approved MCA, these LE Agreements may have received increases or decreases in funding under delegated authority.

BACKGROUND

These LE Agreements with mental health services contractors provide a broad range of mental health services to severely and persistently mentally ill adults, and to seriously emotionally disturbed children, adolescents, and their families, pursuant to the California Welfare and Institutions Code, Division 5, Part 2, Chapter 1, Section 5602. These mental health services include, but are not limited to, diagnosis, evaluation, treatment, day care, respite care, living arrangements, community skill training, information, referrals, consultation, and community services.

The Agreement format includes a new provision on Force Majeure and revised mandated provisions on Consideration of Greater Avenues for Independence (GAIN) or General Relief Opportunities for Work (GROW) Participants for Employment and Indemnification and Insurance.

CONTRACTING PROCESS

All of the 63 LE Agreements have existing agreements with DMH approved by your Board on December 2, 2008. The term of 37 LE Agreements will be effective July 1, 2009 through June 30, 2010. The term of 26 LE Agreements will be effective July 1,

2009 through June 30, 2010, with a provision for one subsequent one-year renewal period.

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